

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division of Water

4 (Amendment)

5 401 KAR 8:040. Laboratory certification.

6 RELATES TO: KRS 224.10-100, 40 C.F.R. 141.21, Appendix A-Subpart C,
7 141.201, Appendices A, B of Subpart Q[, EO 2009-538]

8 STATUTORY AUTHORITY: KRS 224.10-100(4), (5), (28), 224.10-110(2), 40 C.F.R.
9 141.28, 40 C.F.R. 142.10, 42 U.S.C. 300f-300j-26[, EO 2009-538]

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110(2) requires the
11 cabinet to enforce the administrative regulations promulgated by the secretary for the regulation
12 and control of the purification of water for public and semipublic use.[EO 2009-538, effective
13 June 12, 2009, establishes the new Energy and Environment Cabinet.] This administrative
14 regulation establishes procedures for certification of commercial or water system laboratories to
15 test for drinking water contaminants.

16 Section 1. Laboratory Certification. (1) The U.S. Environmental Protection Agency or the
17 cabinet shall evaluate a public water system laboratory or a commercial laboratory that performs
18 drinking water analysis for a public water system for certification.

19 (2) Contracting by the cabinet with a third party to conduct laboratory evaluations and
20 make recommendations to the cabinet regarding certification shall be in accordance with the
21 Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures

1 Quality Assurance; Fifth Edition, January 2005", Publication EPA 815-R-05-004.

2 (3)(a) Certification may be for one (1) or more~~[analysis]~~ categories and include one or
3 more method-analytes within a specific~~[or for a single drinking water contaminant within an~~
4 ~~analysis]~~ category.

5 (b) Each specific method-analyte pair~~[analysis category]~~ shall require a different
6 certification, but an on-site laboratory audit may include all method-analyte pairs for which the
7 laboratory has requested certification~~[qualification for different certifications may be evaluated~~
8 ~~during one (1) audit]~~.

9 Section 2. Application. (1) An initial certification request may be made at any point
10 during the calendar year.

11 (2) A laboratory seeking certification shall submit a written request for certification to the
12 cabinet. The request shall include:

13 (a) A statement of the method analyte pair~~[analysis category]~~ or drinking water
14 contaminant for which certification is requested;

15 (b) A list of the analytic methods for each analysis for which certification is requested;

16 (c) Payment of the fee established in 401 KAR 8:050, Section 2(5) for the certification
17 requested; and

18 (d) Completion of a Proficiency Test (PT)~~[Performance Evaluation (PE)]~~ study for each
19 method-analyte pair~~[analysis category or drinking water contaminant]~~ for which certification is
20 requested.

21 (3) The cabinet may request other information necessary to determine eligibility for
22 certification as described in the Manual for the Certification of Laboratories Analyzing Drinking

1 Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005", Publication
2 EPA 815-R-05-004.

3 (4)(a) A laboratory that~~[An applicant who]~~ has been decertified in accordance with the
4 "Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and
5 Procedures Quality Assurance; Fifth Edition, January 2005", Publication EPA 815-R-05-004
6 for a method analyte pair~~[an analysis category or drinking water contaminant]~~ may request
7 recertification in accordance with this section.

8 (b) The applicant for recertification shall pay the fee established in 401 KAR 8:050,
9 Section 2(4).

10 Section 3. Public Water System Laboratory. (1) A Public water system may establish a
11 laboratory. Each laboratory shall be certified annually.

12 (2) Failure to achieve or maintain annual certification shall not relieve the public water
13 system of the responsibility to report results of the required analyses from a certified laboratory.

14 Section 4. Requirements. Maintenance of certification shall require the following:

15 (1) Analysis. Analyses for drinking water contaminants shall be performed in accordance
16 with the appropriate approved method established in 40 C.F.R. Subpart C, 141.21 through
17 Appendix A;

18 (2) Submission of analysis results. The result of each analysis performed in a certified
19 laboratory by or for a public water system shall be submitted to the cabinet by the tenth day of
20 the month following the compliance period for which the analysis was performed and shall be
21 submitted to the public water system as soon as possible. The public water system shall be
22 responsible for this reporting requirement; and

(3) **Proficiency Test**~~[Performance evaluation]~~ sample. A **proficiency test**~~[performance evaluation (PE)]~~ sample shall be analyzed for each **method analyte pair**~~[analysis category or drinking water contaminant]~~ for which certification is requested, and the results shall be submitted to the cabinet **in accordance with**~~[at times specified in]~~ the "Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; **Fifth Edition, January 2005", Publication EPA 815-R-05-004**~~[not to exceed twice a year, unless additional results shall be required in accordance with the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance]~~.

Section 5. Deviations. (1) Deviation from accepted practice specified in the "Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; **Fifth Edition, January 2005", Publication EPA 815-R-05-004** listed on a report resulting from an on-site inspection, shall be corrected.

(2) A written explanation of the deviation and action taken to correct it shall be submitted to the cabinet within thirty (30) days of the issuance of the inspection report.

Section 6. Violations. (1) A laboratory shall report any violation of a maximum contaminant level or other violation requiring Tier 1 public notification pursuant to 401 KAR 8:070 to the public water system and the cabinet within twenty-four (24) hours of sample analysis, in accordance with 40 C.F.R. 141.201-141.211, Appendices A and B.

(2) A public water system shall begin check sampling within twenty-four (24) hours of notification of a violation.

(6) Emergency provision. A laboratory shall make provisions to receive and test samples twenty-four (24) hours a day during an emergency.

1 Section 7. Right of Entry. A certified laboratory shall permit the cabinet to conduct on-
2 site surveys during normal business hours, without prior notification.

3 Section 8. Revocation of certification and downgrading of certification shall be in
4 accordance with the procedures established in the "Manual for the Certification of Laboratories
5 Analyzing Drinking Water; Criteria and Procedures Quality Assurance; **Fifth Edition, January**
6 **2005", Publication EPA 815-R-05-004.**

7 (1) A laboratory that has been notified of a change of certification shall, within seventy-
8 two (72) hours, notify the public water systems that the laboratory serves of the change in
9 certification status and any impact that change could have on the public water system.

10 (2) A laboratory may provide monitoring reports by subcontracting with a laboratory that
11 is certified by the cabinet.

12 Section 9. Recognition of an Out-of-state Laboratory. (1) The cabinet shall recognize a
13 laboratory located outside Kentucky upon submission of proof by the laboratory that it is
14 certified by the Environmental Protection Agency, or by a state having primary enforcement
15 responsibility for the provisions of the Safe Drinking Water Act, 42 U.S.C. 300f through 300j-
16 26, or that is certified pursuant to the Safe Drinking Water Act, 42 U.S.C. 300f through 300j-26,
17 requirements.

18 (2) A water system located in Kentucky that has entered into a contract with a certified
19 out-of-state laboratory shall comply with time intervals and capabilities established in the
20 Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures
21 Quality Assurance; **Fifth Edition, January 2005, Publication EPA 815-R-05-004.**

22 (3) If on-site inspection shall be conducted for certification of an out-of-state laboratory,
23 the laboratory shall bear the cost.

1 Section 10. Incorporation by Reference. (1) "Manual for the Certification of Laboratories
2 Analyzing *Drinking* Water; Criteria and Procedures Quality Assurance; Fifth Edition, January
3 2005", Publication EPA 815-R-05-004, is incorporated by reference.

4 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,
5 at the Kentucky Division of Water, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday
6 through Friday, 8 a.m. to 4:30 p.m.

DRAFT